

REMARKS/ARGUMENTS

Pending Claims

Claims 17, 20, 22, 25-31, 34, and 36-42 are pending. Claims 17 and 29 are amended to correct typographical errors. No new matter is added by way of these amendments. Reconsideration of the pending claims is hereby requested.

Claim Objection

Claim 17 is objected to due to an unclear phrase. This typographical error is corrected in the amendment made herein. Accordingly, this objection should be withdrawn.

Rejection Under Section 102

Claims 17, 25-26, 28, and 37-42 are rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent 5,925,362 (“Spitler”). Applicants traverse.

Spitler has an earliest possible effective U.S. filing date of August 11, 1993. However, Applicants’ invention date is earlier than August 11, 1993, such that Spitler is not prior art to the pending claims under 35 U.S.C. § 102(e).

In that respect, Applicants point to the Declaration of Schlom submitted on December 1, 2005, which demonstrates that prior to August 11, 1993, Applicants had conceived of the idea of administering to a host an effective amount of PSA using a pox viral vector having a DNA segment encoding PSA to elicit an immune response in a human. The previously provided Declaration of Schlom further shows that the goal was to develop and administer the pox viral vector to humans to generate an immune reaction to prevent and treat prostate cancer in humans. Applicants also point to the Declaration of Schlom and Panicali submitted herewith, which demonstrates that prior to August 11, 1993, Applicants had conceived of the idea of administering recombinant pox virus having a PSA gene or epitope thereof as a vaccine to elicit a T cell response in the host. The Declaration of Schlom and Panicali further demonstrates that the inventors had conceived of administering a first pox virus vector encoding PSA followed by either a second pox virus encoding PSA or PSA peptides, e.g., in liposomes, in a “prime and boost” protocol (see paragraph 5 of the Declaration of Schlom and Panicali). Accordingly, the declarations are commensurate with the scope of the pending

claims and demonstrate that Applicants conceived of the claimed invention prior to August 11, 1993.

Accordingly, Spitzer is not prior art to the pending claims, and Applicants respectfully request that the anticipation rejection be withdrawn.

Rejection Under Section 103

Claims 17, 20, 22, 25-31, 34-36, and 37-42 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Spitzer in view of Fields (*Fields Virology* 3rd Edition Vol. 2, Lippincott, Williams, and Wilkins, pages 2637-2671, published 1996) and Hodge (*Cancer Res.*, 54(21): 5552-5 (1994)). Applicants traverse.

As discussed above, Spitzer is not a proper prior art reference to the claimed invention. As stated in the Office Action, Fields and Hodge provide general disclosure of different pox viruses and co-stimulatory molecules, respectively. Neither, alone or together, but without Spitzer, teaches or renders obvious the claimed invention. Further, as demonstrated by the Declaration of Schlom submitted on December 1, 2005, as well as the Declaration of Schlom and Panicali submitted herewith, Applicants' conception of the claimed invention predates the publication date of both Hodge (1994) and Fields (1996). Therefore, Applicants request that the obviousness rejection be withdrawn.

Conclusion

Applicants respectfully submit that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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